IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3025 OF 2007

M/s Steelite Engg. Limited.... Petitioner

versus

Nitinkumar a. Thakkar..... Respondent.

Shri Madhav J. Jamdar for the petitioner
Shri S.C. Naidu i/b M/s. C.R.Naidu & Co. for the respsondent.

CORAM; A.P. DESHPANDE, J.
DATED; 7TH JUNE, 2007

P.C.;

1. The petitioner company takes an exception to an award passed by the labour court in a reference IDA No. 747/01 allowing the same and directing the petitioner to reinstate the respondent workmen with 50% backwages and continuity of service. The respondent workman claimed that he was employed as a despatch clerk cum bill collector with effect from 16-7-1998 and his last drawn wages were Rs. 4500/- per month. In the reference the respondent averred that from 16-7-1998 he was in continuous service and had proceeded on leave from 11-5-2000 to 13-5-2000. He further claims that he had obtained oral permission from Mahendra Shah, the Managing Director of the company and when he reported for work on 15-5-2000, Nikhil M.Shah, Director of the company, told him to

stop the work as he has been terminated from service.

2. Aggrieved thereby the workman gave legal notice and made a demand for reinstatement. After submission of justification statement, the conciliation officer called the management of the petitioner company but they did not participate in conciliation proceeding. Thus the reference came to be made to the labour court. The main contention of the workman was that he has worked for more than 240 days and his termination was effected in breach of section 25-F of the Industrial Disputes Act without offering him retrenchment compensation or notice pay as required by law. The present petitioner by filing a written statement stated that the workman himself stopped reporting for work and has voluntarily abundand the service. It is then contended that the respondent employee is not a workman as defined by section 2(s) of Industrial Disputes Act and he was performing managerial, administrative and supervisory duties. The labour court has rejected the cause of the petitioner and allowed the reference. Aggrieved thereby this petition has been filed.

3. It is contended that the respondent,not being the workman as defined in section 2(s), the provisions of Industrial Disputes Act are not applicable. The

labour court has categorically found that the company has failed to place on record any document including the appointment order to indicate that the respondent was appointed as a manager. As no document was placed on record revealing the nature of duties, performed by the respondent, there was no direct evidence available. Some of the documents, filed by the petitioner before the labour court were relied upon to show that the respondent has signed as manager whereas the respondent has explained that he signed certain documents for the manager when the manager was absent. Considering the said documents in their proper perspective, the labour court has held that the respondent was not performing the managerial or supervisory duties and is the workman.

4. Perused the award passed by the labour court. A possible view of the matter has been taken, based on material and evidence on record, which does not call for any interference. Hence writ petition is summarily dismissed.

5. At this stage the learned counsel for the petitioner seeks stay of the order. As no interim order is operating in the present petition, there is no reason to stay this order. Hence prayer is rejected.

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FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE.

WRIT PETITION NO. 3025 OF 2007

Office Notes, Office Memorada orders or directions and Registrar‘s orders.	Court‘s or Judge‘s Orders.

CORAM; A.P.DESHPANDE,J.

DTAED: 7TH JUNE, 2007.

P.C.

1. For reasons separately recorded the writ petition is summarily dismissed.

2. At this stage the learned counsel for the petitioner seeks stay of the order. As no interim order is operating in the present petition, there is no reason to stay this order. Hence prayer is rejected.

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